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Paper No. 14

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MAY 15 2003

**OFFICE OF PETITIONS
ON PETITION**

In re application of :
John P. Gahan :
Application No. 09/600,320 :
Filing Date: July 16, 2000 :
Attorney Docket No. 1223-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2003, to revive the above-identified application.

The petition is Dismissed.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice of Non-Compliant Amendment filed July 17, 2002, which set a period for reply of (1) month or (30) days from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2002.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), The petition indicates that a response to the first Office action has been previously submitted on February 7, 2003; however, the Notice of Abandonment mailed February 27, 2003 sets forth that the reply received February 7, 2003 does not constitute a proper reply to the non-final Office action mailed July 17, 2002. The petition cannot be granted until a proper reply is submitted. Accordingly, a copy of the Notice mailed July 17, 2002 will be re-mailed with this decision.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael S. Hargis appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Michael S. Hargis desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

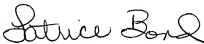
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 308-6911.



Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Notice of Non-Compliant Amendment 37 CFR 1.121

Cc: Michael S. Hargis
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Lexington, KY 40507